

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

HERBERT JACK GOLDEN;)
)
Plaintiff,)
)
v.)Civil Action No.: 2:08-cv-70-WKW
)
SUN LIFE FINANCIAL, INC.;)
SUN LIFE ASSURANCE COMPANY OF)
CANADA; MCMC, LLC;)
)
Defendants.)

PLAINTIFF'S FIRST MOTION TO COMPEL

COMES NOW the Plaintiff, Herbert Jack Golden, and files this First Motion To Compel seeking an order from this Court requiring Defendant MCMC, LLC (“MCMC”) to produce all service agreements between MCMC (or any of its subsidiaries or predecessor companies,) and any of the Sun Life Defendants. The contents of any service agreement between MCMC and the Sun Life Defendants is relevant in this Honorable Court’s determination of what amount of deference to give Defendants’ denial of Plaintiff’s claim for Long Term Disability (“LTD”) benefits. *See Anderson v. Unum Life Ins. Co. of America*, 414 F. Supp. 2d 1079 (M.D. Ala. 2006). Moreover, MCMC has placed the contents of the services agreement between it and the Sun Life Defendants directly at issue by arguing that

it is not a fiduciary to the Plan at issue in this case. *See Motion for Summary Judgment (Doc. No. 18) and Motion for Sanctions (Doc. No. 36).*

Plaintiff requested said services agreement with his April 16, 2008 Discovery Requests. Plaintiff's pertinent Requests for Production are:

1. Produce and identify by Bates number all agreements or service agreements between you and any other Defendant, including but not limited to, those service agreements governing and/or related to any services You provided related in any way to Plaintiff.
3. Produce and identify by Bates number any and all documents that describe your responsibilities and compensation governing the terms of your services to any Defendant or to individuals referred to you by any Defendant as it relates to the services you provided, or arranged to be provided, to Plaintiff or any Defendant.

Defendant MCMC has not produced the service agreements responsive to the request as set forth above – moreover, Defendant MCMC has not produced any discovery responses. In fact, MCMC has placed the requested services agreement directly at issue by arguing in its Motion for Summary Judgment (Doc. No. 18) and Motion for Sanctions (Doc. No. 36) that it is not a fiduciary to the Plan at issue.

Plaintiff therefore respectfully requests this Honorable Court grant his First Motion to Compel and order Defendant MCMC to produce all service agreements, including any service agreements it may have with the Sun Life Defendants,

governing services provided on the Sun Life Defendants' policies, including the policy at issue in this case.

/s/ Jenifer Champ Wallis
One of the Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 29th day of May, 2008, a copy of the foregoing was filed electronically using this Court's electronic filing system. Notice of this filing is due to be served by operation of the Court's electronic filing system to the following parties indicated on the electronic filing receipt as participants in the Courts CM/ECF system:

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